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14 Attorneys for Defendant

MASCON, INC.

15 **UNITED STATES DISTRICT COURT**

16 **SOUTHERN DISTRICT OF CALIFORNIA**

17 PULSE ENGINEERING, INC. a Delaware
18 corporation,

19 Plaintiff,

20 v.

21 MASCON, INC., doing business as ATW
22 SECURITY, a Massachusetts corporation,

23 Defendant.

CASE NO. 08CV0595 JM AJB

**DEFENDANT'S ANSWER TO
COMPLAINT FOR PATENT
INFRINGEMENT WITH
COUNTERCLAIM**

24 Defendant Mascon, Inc. ("Mascon") answers the Complaint of Pulse Engineering Inc.
25 ("Pulse") as follows:

26 ///

27 ///

28 864135.1

Defendant's Answer to Complaint for Patent
Infringement with Counterclaim
Case No. 08CV0595 JM AJB

THE PARTIES

1. Mascon is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 1 of the Complaint and therefore denies the same.

2. Mascon admits the allegations of Paragraph 2 of the Complaint.

3. Mascon admits the allegations of Paragraph 3 of the Complaint.

JURISDICTION AND VENUE

4. Mascon admits that this action arises under the Patent Laws of the United States, 35 U.S.C. § 1 et seq., and that this Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338(a), but otherwise denies the allegations of this paragraph.

COUNT I: Patent Infringement-U.S. Patent No. 6,404,347

5. Mascon admits that United States Patent No. 6,404,347 entitled “Alarm Filter Circuit” was issued by the United States Patent and Trademark Office on June 11, 2002, and that a true and correct copy thereof was attached to the Complaint, but otherwise denies the allegations of this paragraph.

6. Mascon is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 6 of the Complaint, and therefore denies the same.

7. Mascon admits that it makes the ATW DSL-500 Alarm DSL filter and sells it throughout the United States but otherwise denies the allegations of Paragraph 7 of the Complaint.

8. Mascon denies the allegations of Paragraph 8 of the Complaint.

9. Mascon denies the allegations of Paragraph 9 of the Complaint.

10. Mascon denies the allegations of Paragraph 10 of the Complaint.

COUNT II: Patent Infringement-U.S. Patent No. 6,472,992

11. Mascon admits that United States Patent No. 6,472,992 entitled "Alarm Filter

Circuit" was issued by the United States Patent and Trademark Office and that a true and correct copy thereof was attached to the Complaint, but otherwise denies the allegations of this paragraph.

12. Mascon is without knowledge or information sufficient to form a belief as to the truth of the allegations of Paragraph 12 of the Complaint, and therefore denies the same.

13. Mascon admits that it makes the ATW DSL-500 Alarm DSL filter and sells it throughout the United States, but otherwise denies the allegations of Paragraph 13 of the Complaint.

14. Mascon denies the allegations of Paragraph 14 of the Complaint.

15. Mascon denies the allegations of Paragraph 15 of the Complaint.

16. Mascon denies the allegations of Paragraph 16 of the Complaint.

COUNTERCLAIM

PARTIES

1. On information and belief: Plaintiff Pulse Engineering, Inc. (“Pulse”) is a corporation organized and existing under the laws of the State of Delaware; it has its principal place of business at 12220 World Trade Drive, San Diego, California.

2. Mascon, Inc. ("Mascon") is a corporation organized and existing under the laws of the Commonwealth of Massachusetts. It has its principal place of business at 5 Commonwealth Avenue, Woburn, Massachusetts.

JURISDICTION AND VENUE

3. These counterclaims for declaratory judgment of non-infringement (Counts I and III) and invalidity (Counts II and IV) are brought pursuant to the Patent Statute of the United States, 35 U.S.C. §101 et seq.

4. This Court has subject matter jurisdiction over the counterclaims pursuant to 28

1 U.S.C. §§1331 (federal question), 1338 (patents), and 2201 (declaratory judgment).

2 5. Plaintiff Pulse is a resident of this judicial district and is subject to its personal
3 jurisdiction.

4 6. Venue is proper in this district pursuant to 28 U.S.C. §§1391(b).

5 **COUNT I: DECLARATORY JUDGMENT OF NON-INFRINGEMENT:**

6 **U.S. Patent No. 6,404,347**

7 7. Mascon's manufacture, use and sale of the ATW DSL-500 Alarm filter does not
9 infringe any claim of U.S. Patent No. 6,404,347 ("the '347 patent"), either directly or indirectly.

10 **COUNT II: DECLARATORY JUDGMENT OF INVALIDITY:**

11 **U.S. Patent No. 6,404,347**

12 8. The '347 patent is invalid for failure to meet the statutory standards of
13 patentability established by the United States Patent Statute, 35 U.S.C. §1 et seq., including, but
14 not limited to, §§102, 103 and 112.

16 **COUNT III: DECLARATORY JUDGMENT OF NON-INFRINGEMENT:**

17 **U.S. Patent No. 6,472,992**

18 9. Mascon's manufacture, use and sale of the ATW DSL-500 Alarm DSL filter does
19 not infringe any claim of U.S. Patent No. 6,472,992 ("the '992 patent"), either directly or
20 indirectly.

22 **COUNT IV: DECLARATORY JUDGMENT OF INVALIDITY:**

23 **U.S. Patent No. 6,472,992**

24 10. The '992 patent is invalid for failure to meet the statutory standards of
25 patentability established by the United States Patent Statute, 35 U.S.C. §1 et seq., including, but
26 not limited to, §§102, 103 and 112.

PRAYER FOR RELIEF

WHEREFORE, Defendant-Counterclaim Plaintiff Mascon prays for a judgment:

- A. That Mascon does not infringe any claim of the '347 patent;
 - B. That no valid invention is defined by the claims of the '347 patent;
 - C. That Mascon does not infringe any claim of the '992 patent;
 - D. That no valid invention is defined by the claims of the '992 patent;
 - E. For such other and further relief as this Court deems just and proper.

DATED: June 24, 2008

HIGGS, FLETCHER & MACK LLP

By: /s/ Thomas W. Ferrell
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NELSON LOVINS, ESQ.
THOMAS W. FERRELL, ESQ.
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Attorneys for Defendant
MASCON, INC.

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing documents

1. DEFENDANTS' ANSWER TO COMPLAINT FOR PATENT INFRINGEMENT WITH COUNTERCLAIM

were served on the following parties by CM/ECF:

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DATED: June 24, 2008

By: /s/ *Thomas W. Ferrell*
THOMAS W. FERRELL